IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1916 of 2003

to

FIRST APPEALNo 1918 of 2003

with

CIVIL APPLICATION NO. 6933 TO 6935 OF 2003

For Approval and Signature:

HON'BLE MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DY.COLLECTOR & LAQ OFFICER

Versus

MAVJIBHAI SHAMJIBHAI

Appearance:

1. First Appeal No. 1916 to 1919 & CA No. 6933 to 6935 of 2003

MR. L.R. PUJARI, LD.AGP FOR for Petitioner No. 1

MR VIMAL M PATEL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE N.G.NANDI

Date of decision: 23/02/2004

COMMON ORAL JUDGEMENT

1. Heard Mr. L.R. Pujari, learned AGP for the appellant and Mr. Vimal Patel, learned advocate for the respondent - claimants.

2. These appeals under section 54 of the Land Acquisition Act (herein after "The Act") have been filed by the appellant state against the award by the Reference Court under section 18 of the Act enhancing the compensation by awarding additional compensation at Rs.500/- per Aare over & above Rs.110/- per Aare awarded by Special Land Acquisition Officer, under section 11 of the Act.

3. It is submitted by Mr. Pujari that the notice under section 12 (2) of the Act was issued on 1-9-1988 and the same was served on the respective respondent-claimant on 7-10-1988. The application praying for reference to the Civil Court was filed by the claimants on 6-1-1989. As per section 18 (2) the application for reference has to be filed within 6 weeks. It will be seen that the application for reference to the Civil Court is delayed by 47 days. Probably this aspect has been overlooked by the Reference Court. Since the application seeking reference to the Civil Court for determination of market value against the award passed under section 11 of the Land Acquisition Act is beyond the period of limitation prescribed under section 18 of the Act for the purpose of filing reference, the reference being beyond limitation would be liable to be dismissed.

4. In view of the above, the award by the Reference Court granting additional compensation of Rs.500/- per Aare is required to be quashed and set aside, allowing these appeals since the reference itself would not be competent, having been beyond prescribed period.

5. In view of the above present appears are allowed. The judgment & award passed in Land Acquisition Case No. 55 to 57 of 1991 by Learned 5th. Jt. Civil Judge (S.D.) Bhavnagar dated 4-5-2002 are hereby quashed and set aside.

6. These appeals are decided only on the question of limitation, without reference to the merits of the contentions of either side as regards the determination

of market value of the land under acquisition.

In Civil Application No. 6933 to 6935 of 2003:

In view of the order in main appeals, no order is necessitated in civil applications. Civil applications disposed of. Rule made absolute.

Registry to place copy of this order in each of the matters.

Dt: 23-2-2004 (N.G. Nandi, J)

/vgn